

# United States Court of Appeals

District of Columbia Circuit

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## NOTICE OF FINAL RULE

In accordance with the provisions of D.C. Circuit Rule 47, notice of proposed amendments to D.C. Circuit Rule 47.1, Matters Under Seal, was provided on April 2, 1998, with an opportunity to comment.

The Advisory Committee on Procedures received comments on the proposed amendments. After consideration of these comments, the Advisory Committee transmitted to the Court its recommendation that the proposed amendments be adopted in final form with some revisions. The Court considered the comments of the Advisory Committee and accepted its recommendation. The Court has ordered that the amendment to the rule be adopted with the revision recommended by the Advisory Committee, effective December 8, 1998.

Copies of this notice have been published this date by the means specified in D.C. Circuit Rule 47.

/s/ Mark J. Langer  
Clerk

Issued: December 8, 1998

## United States Court of Appeals

For the District of Columbia Circuit

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**BEFORE:** Edwards, Chief Judge; Wald, Silberman, Williams, Ginsburg, Sentelle, Henderson, Randolph, Rogers, Tatel, and Garland, Circuit Judges.

## ORDER

It is ORDERED by the Court, *en banc*, that Circuit Rule 47.1 be amended to read as follows:

### CIRCUIT RULE 47.1 MATTERS UNDER SEAL

(e) Appendices Containing Matters Under Seal.

(1) *Sealed Supplement to the Appendix; Number of Copies.* If a party deems it necessary to include material under seal in an appendix, the appendix shall be filed in 2 segments. One segment shall contain all sealed material and shall bear the legend "Supplement — Under Seal" on the cover, and each page of that supplement containing sealed material shall bear the legend "Under Seal" at the top of the page. The second appendix segment shall bear the legend "Public Appendix -- Material Under Seal in Separate Supplement" on the cover; each page from which material under seal has been deleted shall bear the legend "Material Under Seal Deleted" at the top of the page. The party shall file 7 copies of the sealed supplement and 7 copies of the public appendix.

**(2) *Service; Number of Copies.*** Each party shall be served with one copy of the public appendix and one copy of the sealed supplement, if the party is entitled to receive the material under seal. (*See, e.g., Rule 6(e), Federal Rules of Criminal Procedure.*)

**(3) *Non-availability to the Public.*** Supplements to appendices filed with the court under seal shall be available only to authorized court personnel and shall not be made available to the public.

**(f) Disposal of Sealed Records.**

**(1)** In any case in which all or part of the record of this court (including briefs and appendices) has been maintained under seal, the Clerk shall, in conjunction with the issuance of the mandate (or the entry of the final order, in a case in which no mandate shall issue), order the parties to show cause why the record (or sealed portions) should not be unsealed. If the parties agree to unsealing, the record shall be unsealed by order of the court, issued by the Clerk. No order to show cause will be issued in cases where the nature of the materials themselves (e.g., grand jury materials) makes it clear that unsealing would be impermissible. If the parties do not agree to unsealing, the order to show cause, and any responses thereto, shall be referred to the court for disposition.

**(2)** Any record material not unsealed pursuant to this Rule shall be designated "Temporary Sealed Records," and transferred to the Federal Records Center under applicable regulations. The records shall be returned to the court for reconsideration of unsealing after a period of twenty years.

**(3)** The court may, on its own motion, issue an order to show cause and consider the unsealing of any records in the court's custody, at any time.

**(4)** Counsel to an appeal involving sealed records shall promptly notify the Court when it is no longer necessary to maintain the record or portions of the record under seal.

**This amendment is effective December 8, 1998.**

*Per Curiam*  
**FOR THE COURT:**  
/s/ Mark J. Langer  
Clerk